

**TRIAL MINUTES OF THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS**

CR-08-00016

July 8, 2008
9:00 a.m.

United States of America -vs- Larry Borja Hocog

PRESENT: Hon. Alex R. Munson, Chief Judge
Sanae Shmull, Court Reporter
K. Lynn Lemieux, Courtroom Deputy
Eric O'Malley, Assistant U.S. Attorney
Ramon Quichocho, Attorney for Defendant
Michael Dotts, Attorney for Defendant
William Fitzgerald, Attorney for Defendant
Larry Borja Hocog, Defendant

Proceedings: Jury Trial - Day Two

Government by Eric O'Malley, AUSA. Also present at Government's table; Special Agent, Daniel Holcomb. Defendant, Larry Borja Hocog, was present with counsels, Attorneys Ramon Quichocho, Michael Dotts and William Fitzgerald. 12 regular jurors and two alternates were present.

Outside the presence of the jury, Court addressed the parties about several matters pertaining to the trial. Parties needed time to discuss the matters.

Court recessed at 9:05 a.m. and reconvened at 9:18 a.m.

Attorney Fitzgerald moved for a mistrial. Court ruled that a mistrial could not be requested until after the jury is instructed.

At 9:25 a.m. the jurors were brought into the Courtroom. Court addressed the jurors regarding the instructions; mainly the elements of the crime. Court gave **new instructions** as to the elements of the crime and instructed them to disregard the instructions given at the beginning of the trial.

Attorney Fitzgerald renewed the motion for mistrial (outside the presence of the jury). Court DENIED the motion.

Government witness : (**Michael J. Lewis** retook the stand). RDX. Reference to Defense Ex. "E". Attorney Quichocho began RCX at 9:35 a.m. Defense moved to admit Ex. E into evidence; no objection, Court so ordered. Government began RDX at 9:38 and concluded at 9:40 a.m. Witness was excused.

Government called witness:

DR. NORMA SEMAN ADA. DX. Government's **Ex. 3** (License issued by CNMI Medical Profession Licensing Board, dated January 1, 2007). Government moved to admit Ex. 3 into evidence, over objection, Court so ordered. Attorney Quichocho began CX at 10:04 a.m. Defendant's Ex. C (Board Minutes). Defense moved to admit **Ex. C** into evidence; no objection, Court so ordered. Ex. D (Letter from Dana Emery to Dr. Hocog dated February 27, 2006). Defense moved to admit, **Ex. D** into evidence, over objection, Court so ordered. RDX. RCX.

At 10:45 a.m. court recessed the jurors and they left the Courtroom.

Attorney Fitzgerald moved that the Government turn over all documents pertaining to the Board Minutes of whatever meeting took place that discusses Dr. Hocog's restrictions. Government reported to the Court that they do not have such minutes.

Court recessed at 10:50 a.m. and reconvened at 11:10 a.m.

Attorney Quichocho continued with the RCX of witness Dr. Norma Ada. Defendant's Ex. F (Restrictions place on Dr. Hocog's license for 2005 and 2006). Defendant moved to admit Ex. F; no objection, Court so ordered. Witness Ada was excused at 11:15 a.m.

Government called witness;

JOSEPH K. VILLAGOMEZ (Secretary for CNMI Public Health). DX. Government's Ex. 4 (Notification of Personnel Action with attachments, dated April 12, 2005). Government moved to admit **Ex. 4**; over objection, Court so ordered. Government moved to admit Gov. **Ex. 5** into evidence; over objection, Court so ordered.

Court adjourned for the lunch break at 11:38 a.m. and ordered the jurors to return at 1:30 p.m. to continue with the trial.

Court reconvened at 1:40 p.m.

Government continued with DX of witness Villagomez. Attorney Quichocho began CX of witness at 1:41 p.m. Defendant's Ex. G (Letter to Kevin J. Villagomez from Dr. Hocog). Defense moved to admit **Ex. G** into evidence; Government objected. Court denied the admission of the Exhibit. Government began RDX at 2:00 p.m. Witness Villagomez was excused at 2:05 p.m.

Government called witness:

ANTHONY RAHO. (Director of Pharmacy Services, CHC) DX. Attorney Quichocho began CX at 2:30 p.m. **Ex. A** (Prescription Form used at CHC). Defense moved to admit **Ex. A** into evidence; no objection, Court so ordered.

Court recessed at 3:00 p.m. and reconvened at 3:15 p.m.

Attorney Quichocho continued with the CX of witness Raho. **Ex. H** (Log of Dr's that are issued Internal DEA Numbers. Defense moved to admit **Ex. H** into evidence; no objection, Court so ordered. Government began RDX at 3:28 p.m. Attorney Quichocho conducted RCX. Witness was excused at 3:38 p.m.

Government called witness:

DANIEL HOLCOMB (Special Agent, DEA). DX. Government's Ex. 6-95 (CHC Ambulatory Encounter Forms). Government moved to admit **Ex. 6-95** into evidence; no objection, Court so ordered. Government Ex. 96-138 (CHC Pharmacy Logs). Government moved to admit **Ex. 96-138** into evidence; no objection with the caveat that the exhibits that were withdrawn are identified. Court so ordered. Attorney Quichocho began CX at 4:10 p.m. Government began RDX at 4:25 p.m. Attorney Quichocho began RCX at 4:33 p.m. Government did RDX at 4:35 p.m. Witness was excused at 4:36 p.m.

Court excused the jurors at 4:35 p.m. and ordered to return at 9:00 a.m. tomorrow.

Attorney Dotts requested that Attorney Fitzgerald be allowed to argue a motion regarding jury instructions on Thursday morning. Court agreed to hear the arguments at 7:45 a.m.

Adjourned at 4:40 p.m.

By: _____ /s/
K. Lynn Lemieux
Courtroom Deputy